

Assembly Bill No. 2623

CHAPTER 623

An act to add Section 11105.75 to the Penal Code, relating to criminal background information.

[Approved by Governor September 24, 2000. Filed
with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, Rod Pacheco. Department of Justice: criminal background checks.

Under existing law, the Department of Justice provides criminal background information to counties and to various state departments, with respect to applicants for licensure, certification, or employment.

The bill would provide that if the requesting agency or entity denies a license, certificate, or employment based upon the information received from the department that is not fingerprint verified, that the agency or entity notify the applicant of its decision, and that the applicant would be permitted to appeal the decision on the grounds that the applicant is not the person so identified by the department. These provisions would become operative on July 1, 2002.

By imposing additional duties on local agencies and entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 11105.75 is added to the Penal Code, to read:

11105.75. (a) (1) If, in the course of performing a criminal history background investigation for an agency or entity statutorily authorized to receive a criminal history, the Department of Justice determines that it appears that the applicant has criminal history

record information that the requesting agency is statutorily authorized to receive, but the identity of the applicant cannot be verified with fingerprints, the department shall provide a copy of the criminal history record to the requesting agency or entity but shall note any entries as to which the identity of the subject has not been fingerprint verified.

(2) The department shall compare all available identifying characteristics of the applicant with those that appear in the criminal history information before responding to the requesting agency or entity with conviction disposition information that has not been fingerprint verified.

(b) If an agency or entity denies a license, certificate, or employment based upon information received from the department that is not fingerprint verified, the agency or entity shall notify the applicant of its decision and that he or she may challenge the identification. In that case, the applicant may appeal the decision of the agency or entity on the grounds that the applicant is not the person so identified.

(c) Neither the department nor any of its employees or any requesting agency or entity shall be liable to any applicant for misidentifications made pursuant to this section.

SEC. 2. This act shall become operative on July 1, 2002.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

